

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 02-7422**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

BARBARA SUTTON,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. T. S. Ellis, III, District Judge. (CR-90-432-A, CA-02-539-A)

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**No. 02-7563**

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In Re: BARBARA SUTTON,

Petitioner.

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On Petition for Writ of Mandamus. (CR-90-432-A)

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Submitted: January 23, 2003

Decided: February 12, 2003

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Before WILKINS, WILLIAMS, and MICHAEL, Circuit Judges.

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No. 02-7422, dismissed and No. 02-7563 petition denied by unpublished per curiam opinion.

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Barbara Sutton, Appellant Pro Se. Scott Frederickson, OFFICE OF THE UNITED STATES ATTORNEY, Alexandria, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

In action No. 02-7422, Barbara Sutton seeks to appeal the district court's order denying her 28 U.S.C. § 2255 (2000) motion. We have independently reviewed the record and conclude for the reasons stated by the district court that Sutton has not made a substantial showing of the denial of a constitutional right. See United States v. Sutton, CR-90-432-A (E.D. Va., Sept. 10, 2002). Accordingly, we deny a certificate of appealability and dismiss the appeal. See 28 U.S.C. § 2253(c) (2000).

In action No. 02-7563, Sutton petitions for a writ of mandamus, seeking an order compelling the district court to appoint her counsel and grant her an evidentiary hearing. Mandamus relief is available only when the petitioner has a clear right to the relief sought. In re: First Fed. Sav. & Loan Ass'n, 860 F.2d 135, 138 (4th Cir. 1988). Mandamus is a drastic remedy to be used only in extraordinary circumstances. Kerr v. United States Dist. Court, 426 U.S. 394, 402 (1976); In re: Beard, 811 F.2d 818, 827 (4th Cir. 1987). Sutton has not established a basis for mandamus relief. Although we grant Sutton's pending motion for leave to proceed in forma pauperis, we deny the petition for writ of mandamus.

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid in the decisional process.

No. 02-7422 - DISMISSED  
No. 02-7563 - PETITION DENIED